

Adopted	Rejected
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COMMITTEE REPORT

YES:	9
NO:	0

MR. SPEAKER:

*Your Committee on Labor and Employment, to which was referred Senate Bill 486, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill **be amended** as follows:*

- 1 Page 3, line 24, delete "two" and insert "**three**".
- 2 Page 3, line 24, delete "sixteen" and insert "**fifty**".
- 3 Page 3, line 24, delete "(\$8,216)" and insert "**(\$8,350)**".
- 4 Page 3, line 32, after "thousand" delete "five" and insert "**eight**".
- 5 Page 3, line 32, delete "forty-five".
- 6 Page 3, line 32, delete "(\$8,545)" and insert "**(\$8,800)**".
- 7 Page 3, line 40, delete "eight thousand eight hundred eighty-six" and
- 8 insert "**nine thousand two hundred fifty**".
- 9 Page 3, line 40, delete "(\$8,886)" and insert "**(\$9,250)**".
- 10 Page 4, line 6, after "thousand" delete "two" and insert "**seven**".
- 11 Page 4, line 6, delete "forty-two".
- 12 Page 4, line 6, delete "(\$9,242)" and insert "**(\$9,700)**".
- 13 Page 4, after line 8, begin a new paragraph and insert:
- 14 "SECTION 2. IC 22-4-10.5-7, AS ADDED BY P.L.290-2001,
- 15 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

JULY 1, 2003]: Sec. 7. (a) **After making the deposit required by subsection (b),** the department shall deposit skills 2016 training assessments paid to the department under this chapter in the skills 2016 training fund established by IC 22-4-24.5-1.

(b) **After June 30, 2003, unless the board approves a lesser amount, the department annually shall deposit the first four hundred fifty thousand dollars (\$450,000) in skills 2016 training assessments paid to the department under this chapter in the special employment and training services fund established by IC 22-4-25-1 for the training and counseling assistance described in IC 22-4-25-1(f).**

SECTION 3. IC 22-4-11-3, AS AMENDED BY P.L.30-2000, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 3. (a) ~~Except as provided in section 3-2 of this chapter,~~ The applicable schedule of rates for the calendar year 1983 and thereafter shall be determined by the ratio resulting when the balance in the fund as of the determination date is divided by the total payroll of all subject employers for the immediately preceding calendar year. Schedule A, B, C, or D, appearing on the line opposite the fund ratio in the schedule below, shall be applicable in determining and assigning each employer's contribution rate for the calendar year immediately following the determination date. For the purposes of this subsection, "total payroll" means total remuneration reported by all contributing employers as required by this article and does not include the total payroll of any employer who elected to become liable for payments in lieu of contributions (as defined in IC 22-4-2-32). For the purposes of this subsection, "subject employers" means those employers who are subject to contribution.

FUND RATIO SCHEDULE

When the Fund Ratio Is:

			Applicable
	As Much As	But Less Than	Schedule
		1.0%	A
	1.0%	1.5%	B
	1.5%	2.25%	C
	2.25%		D

(b) **For calendar years before 2002,** if the conditions and requirements of section 2 of this chapter are met, the rate of

contributions shall be determined and assigned, with respect to each calendar year, to employers whose accounts have a credit balance and who are eligible therefor according to each employer's credit reserve ratio. Each employer shall be assigned the contribution rate appearing in the applicable schedule A, B, C, or D on the line opposite his credit reserve ratio as set forth in the rate schedule below:

RATE SCHEDULE FOR ACCOUNTS
WITH CREDIT BALANCES

When the Credit Reserve Ratio Is:

As	But	Rate Schedules					
Much	Less	(%)					
As	Than	A	B	C	D	E	
3.0		1.2	0.2	0.2	0.2	0.15	
2.8	3.0	1.4	0.4	0.2	0.2	0.15	
2.6	2.8	1.6	0.6	0.2	0.2	0.15	
2.4	2.6	1.8	0.8	0.4	0.2	0.2	
2.2	2.4	2.0	1.0	0.6	0.2	0.2	
2.0	2.2	2.2	1.2	0.8	0.4	0.4	
1.8	2.0	2.4	1.4	1.0	0.6	0.6	
1.6	1.8	2.6	1.6	1.2	0.8	0.8	
1.4	1.6	2.8	1.8	1.4	1.0	1.0	
1.2	1.4	3.0	2.0	1.6	1.2	1.2	
1.0	1.2	3.2	2.2	1.8	1.4	1.4	
0.8	1.0	3.4	2.4	2.0	1.6	1.6	
0.6	0.8	3.6	2.6	2.2	1.8	1.8	
0.4	0.6	3.8	2.8	2.4	2.0	2.0	
0.2	0.4	4.0	3.0	2.6	2.2	2.2	
0	0.2	4.2	3.2	2.8	2.4	2.4	

(c) Each employer whose account as of any computation date occurring on and after June 30, 1984, shows a debit balance shall be assigned the rate of contributions appearing on the line opposite his debit ratio as set forth in the following rate schedule for accounts with debit balances:

RATE SCHEDULE FOR ACCOUNTS
WITH DEBIT BALANCES

When the Debit Reserve Ratio Is:

As	But	Rate Schedules					
Much	Less	(%)					

1	As	Than	A	B	C	D	E
2		1.5	4.5	4.4	4.3	4.2	3.6
3	1.5	3.0	4.8	4.7	4.6	4.5	3.8
4	3.0	4.5	5.1	5.0	4.9	4.8	4.1
5	4.5	6.0	5.4	5.3	5.2	5.1	4.4
6	6.0		5.7	5.6	5.5	5.4	5.4

7 (d) Any adjustment in the amount charged to any employer's
8 experience account made subsequent to the assignment of rates of
9 contributions for any calendar year shall not operate to alter the amount
10 charged to the experience accounts of any other base-period employers.

11 SECTION 4. IC 22-4-11-3.3, AS AMENDED BY P.L.1-2002,
12 SECTION 89, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
13 JULY 1, 2003]: Sec. 3.3. (a) For calendar years ~~2002 through 2004,~~
14 **after 2001**, if the conditions of section 2 of this chapter are met, the
15 rate of contributions shall be determined and assigned, with respect to
16 each calendar year, to employers whose accounts have a credit balance
17 and who are eligible therefore according to each employer's credit
18 reserve ratio. ~~Except as provided in section 3.2(b) of this chapter,~~ Each
19 employer shall be assigned the contribution rate appearing in the
20 applicable schedule A, B, C, D, or E on the line opposite the employer's
21 credit reserve ratio as set forth in the rate schedule below:

22 RATE SCHEDULE FOR ACCOUNTS
23 WITH CREDIT BALANCES

24 When the Credit Reserve Ratio Is:

25	As	But	Rate Schedules				
26	Much	Less	(%)				
27	As	Than	A	B	C	D	E
28	3.00		1.10	0.10	0.10	0.10	0.15
29	2.80	3.00	1.30	0.30	0.10	0.10	0.15
30	2.60	2.80	1.50	0.50	0.10	0.10	0.15
31	2.40	2.60	1.70	0.70	0.30	0.10	0.20
32	2.20	2.40	1.90	0.90	0.50	0.10	0.20
33	2.00	2.20	2.10	1.10	0.70	0.30	0.40
34	1.80	2.00	2.30	1.30	0.90	0.50	0.60
35	1.60	1.80	2.50	1.50	1.10	0.70	0.80
36	1.40	1.60	2.70	1.70	1.30	0.90	1.00
37	1.20	1.40	2.90	1.90	1.50	1.10	1.20
38	1.00	1.20	3.10	2.10	1.70	1.30	1.40

1	0.80	1.00	3.30	2.30	1.90	1.50	1.60
2	0.60	0.80	3.50	2.50	2.10	1.70	1.80
3	0.40	0.60	3.70	2.70	2.30	1.90	2.00
4	0.20	0.40	3.90	2.90	2.50	2.10	2.20
5	0.00	0.20	4.10	3.10	2.70	2.30	2.40

6 (b) For calendar years ~~2002 through 2004~~, **after 2001**, if the
7 conditions of section 2 of this chapter are met, the rate of contributions
8 shall be determined and assigned, with respect to each calendar year,
9 to employers whose accounts have a debit balance and who are eligible
10 therefore according to each employer's debit reserve ratio. Each
11 employer shall be assigned the contribution rate appearing in the
12 applicable schedule A, B, C, D, or E on the line opposite the employer's
13 debit reserve ratio as set forth in the rate schedule below:

14 **RATE SCHEDULE FOR ACCOUNTS**
15 **WITH DEBIT BALANCES**

16 When the Debit Reserve Ratio Is:

17	As	But	Rate Schedules				
18	Much	Less	(%)				
19	As	Than	A	B	C	D	E
20		1.50	4.40	4.30	4.20	4.10	5.40
21	1.50	3.00	4.70	4.60	4.50	4.40	5.40
22	3.00	4.50	5.00	4.90	4.70	4.70	5.404.50
23		6.00	5.30	5.20	5.10	5.00	5.406.00
24			5.60	5.50	5.40	5.40	5.40

25 **SECTION 5. IC 22-4-15-1, AS AMENDED BY P.L.290-2001,**
26 **SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE**
27 **JULY 1, 2003]:** Sec. 1. (a) With respect to benefit periods established
28 on and after July 6, 1980, an individual who has voluntarily left the
29 individual's most recent employment without good cause in connection
30 with the work or who was discharged from the individual's most recent
31 employment for just cause is ineligible for waiting period or benefit
32 rights for the week in which the disqualifying separation occurred and
33 until the individual has earned remuneration in employment equal to
34 or exceeding the weekly benefit amount of the individual's claim in
35 each of eight (8) weeks. If the qualification amount has not been earned
36 at the expiration of an individual's benefit period, the unearned amount
37 shall be carried forward to an extended benefit period or to the benefit
38 period of a subsequent claim.

(b) When it has been determined that an individual has been separated from employment under disqualifying conditions as outlined in this section, the maximum benefit amount of ~~his~~ **the individual's** current claim, as initially determined, shall be reduced by twenty-five percent (25%). If twenty-five percent (25%) of the maximum benefit amount is not an even dollar amount, the amount of such reduction will be raised to the next higher even dollar amount. The maximum benefit amount may not be reduced by more than twenty-five percent (25%) during any benefit period or extended benefit period.

(c) The disqualifications provided in this section shall be subject to the following modifications:

(1) An individual shall not be subject to disqualification because of separation from the individual's employment if:

(A) the individual left to accept with another employer previously secured permanent full-time work which offered reasonable expectation of continued covered employment and betterment of wages or working conditions; and thereafter was employed on said job;

(B) having been simultaneously employed by two (2) employers, the individual leaves one (1) such employer voluntarily without good cause in connection with the work but remains in employment with the second employer with a reasonable expectation of continued employment; or

(C) the individual left to accept recall made by a base period employer.

(2) An individual whose unemployment is the result of medically substantiated physical disability and who is involuntarily unemployed after having made reasonable efforts to maintain the employment relationship shall not be subject to disqualification under this section for such separation.

(3) An individual who left work to enter the armed forces of the United States shall not be subject to disqualification under this section for such leaving of work.

(4) An individual whose employment is terminated under the compulsory retirement provision of a collective bargaining agreement to which the employer is a party, or under any other plan, system, or program, public or private, providing for compulsory retirement and who is otherwise eligible shall not be

1 deemed to have left the individual's work voluntarily without good
2 cause in connection with the work. However, if such individual
3 subsequently becomes reemployed and thereafter voluntarily
4 leaves work without good cause in connection with the work, the
5 individual shall be deemed ineligible as outlined in this section.

6 (5) An otherwise eligible individual shall not be denied benefits for
7 any week because the individual is in training approved under
8 Section 236(a)(1) of the Trade Act of 1974, nor shall the individual
9 be denied benefits by reason of leaving work to enter such training,
10 provided the work left is not suitable employment, or because of
11 the application to any week in training of provisions in this law (or
12 any applicable federal unemployment compensation law), relating
13 to availability for work, active search for work, or refusal to accept
14 work. For purposes of this subdivision, the term "suitable
15 employment" means with respect to an individual, work of a
16 substantially equal or higher skill level than the individual's past
17 adversely affected employment (as defined for purposes of the
18 Trade Act of 1974), and wages for such work at not less than
19 eighty percent (80%) of the individual's average weekly wage as
20 determined for the purposes of the Trade Act of 1974.

21 (6) An individual is not subject to disqualification because of
22 separation from the individual's employment if:

- 23 (A) the employment was outside the individual's labor market;
- 24 (B) the individual left to accept previously secured full-time
25 work with an employer in the individual's labor market; and
- 26 (C) the individual actually became employed with the employer
27 in the individual's labor market.

28 (7) An individual who, but for the voluntary separation to move to
29 another labor market to join a spouse who had moved to that labor
30 market, shall not be disqualified for that voluntary separation, if
31 the individual is otherwise eligible for benefits. Benefits paid to the
32 spouse whose eligibility is established under this subdivision shall
33 not be charged against the employer from whom the spouse
34 voluntarily separated.

35 **(8) An individual who is an affected employee (as defined in**
36 **IC 22-4-43-1(1)) and is subject to the work sharing**
37 **unemployment insurance program under IC 22-4-43 is not**
38 **disqualified from participating in the work sharing**

unemployment insurance program.

As used in this subsection, "labor market" means the area surrounding an individual's permanent residence, outside which the individual cannot reasonably commute on a daily basis. In determining whether an individual can reasonably commute under this subdivision, the department shall consider the nature of the individual's job.

(d) "Discharge for just cause" as used in this section is defined to include but not be limited to:

- (1) separation initiated by an employer for falsification of an employment application to obtain employment through subterfuge;
- (2) knowing violation of a reasonable and uniformly enforced rule of an employer;
- (3) unsatisfactory attendance, if the individual cannot show good cause for absences or tardiness;
- (4) damaging the employer's property through willful negligence;
- (5) refusing to obey instructions;
- (6) reporting to work under the influence of alcohol or drugs or consuming alcohol or drugs on employer's premises during working hours;
- (7) conduct endangering safety of self or coworkers; or
- (8) incarceration in jail following conviction of a misdemeanor or felony by a court of competent jurisdiction or for any breach of duty in connection with work which is reasonably owed an employer by an employee.

SECTION 6. IC 22-4-17-2, AS AMENDED BY P.L.290-2001, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2003]: Sec. 2. (a) When an individual files an initial claim, the department shall promptly make a determination of ~~his~~ **the individual's** status as an insured worker in a form prescribed by the board. A written notice of the determination of insured status shall be furnished ~~him~~ **to the individual** promptly. Each such determination shall be based on and include a written statement showing the amount of wages paid to the individual for insured work by each employer during the individual's base period and shall include a finding as to whether such wages meet the requirements for the individual to be an insured worker, and, if so, the week ending date of the first week of the individual's benefit period, the individual's weekly benefit amount, and the maximum amount of benefits that may be paid to the individual for

1 weeks of unemployment in the individual's benefit period. For the
 2 individual who is not insured, the notice shall include the reason for the
 3 determination. Unless the individual, within ~~twenty (20)~~ **ten (10)** days
 4 after such determination was mailed to the individual's last known
 5 address, or otherwise delivered to the individual, asks a hearing thereon
 6 before an administrative law judge, such determination shall be final
 7 and benefits shall be paid or denied in accordance therewith.

8 (b) The department shall promptly furnish each employer in the base
 9 period whose experience or reimbursable account is potentially
 10 chargeable with benefits to be paid to such individual with a notice in
 11 writing of the employer's benefit liability. Such notice shall contain the
 12 date, the name and social security account number of the individual,
 13 the ending date of the individual's base period, and the week ending
 14 date of the first week of the individual's benefit period. Such notice
 15 shall further contain information as to the proportion of benefits
 16 chargeable to the employer's experience or reimbursable account in
 17 ratio to the earnings of such individual from such employer. Unless the
 18 employer, within ~~twenty (20)~~ **ten (10)** days after such notice of benefit
 19 liability was mailed to the employer's last known address, or otherwise
 20 delivered to the employer, asks a hearing thereon before an
 21 administrative law judge, such determination shall be final and benefits
 22 paid shall be charged in accordance therewith.

23 (c) An employing unit, including an employer, having knowledge of
 24 any facts which may affect an individual's eligibility or right to waiting
 25 period credits or benefits, shall notify the department of such facts
 26 within ~~twenty (20)~~ **ten (10)** days after the mailing of notice that a
 27 former employee has filed an initial or additional claim for benefits on
 28 a form prescribed by the board.

29 (d) In addition to the foregoing determination of insured status by the
 30 department, the deputy shall, throughout the benefit period, determine
 31 the claimant's eligibility with respect to each week for which the
 32 claimant claims waiting period credit or benefit rights, the validity of
 33 the claimant's claim therefor, and the cause for which the claimant left
 34 the claimant's work, or may refer such claim to an administrative law
 35 judge who shall make the initial determination with respect thereto in
 36 accordance with the procedure in IC 22-4-17-3.

37 (e) In cases where the claimant's benefit eligibility or disqualification
 38 is disputed, the department shall promptly notify the claimant and the

1 employer or employers directly involved or connected with the issue
 2 raised as to the validity of such claim, the eligibility of the claimant for
 3 waiting period credit or benefits, or the imposition of a disqualification
 4 period or penalty, or the denial thereof, and of the cause for which the
 5 claimant left the claimant's work, of such determination and the reasons
 6 thereof. Except as otherwise hereinafter provided in this subsection
 7 regarding parties located in Alaska, Hawaii, and Puerto Rico, unless
 8 the claimant or such employer, within ~~twenty (20)~~ **ten (10)** days after
 9 such notification was mailed to the claimant's or the employer's last
 10 known address, or otherwise delivered to the claimant or the employer,
 11 asks a hearing before an administrative law judge thereon, such
 12 decision shall be final and benefits shall be paid or denied in
 13 accordance therewith. With respect to notice of disputed administrative
 14 determination or decision mailed or otherwise delivered to the claimant
 15 or employer either of whom is located in Alaska, Hawaii, or Puerto
 16 Rico, unless such claimant or employer, within ~~twenty-five (25)~~ **fifteen**
 17 **(15)** days after such notification was mailed to the claimant's or
 18 employer's last known address or otherwise delivered to the claimant
 19 or employer, asks a hearing before an administrative law judge thereon,
 20 such decision shall be final and benefits shall be paid or denied in
 21 accordance therewith. If such hearing is desired, the request therefor
 22 shall be filed with the commissioner in writing within the prescribed
 23 periods as above set forth in this subsection and shall be in such form
 24 as the board may prescribe. In the event a hearing is requested by an
 25 employer or the department after it has been administratively
 26 determined that benefits should be allowed to a claimant, entitled
 27 benefits shall continue to be paid to said claimant unless said
 28 administrative determination has been reversed by a due process
 29 hearing. Benefits with respect to any week not in dispute shall be paid
 30 promptly regardless of any appeal.

31 (f) ~~No~~ **A** person may **not** participate on behalf of the department in
 32 any case in which the person is an interested party.

33 (g) Solely on the ground of obvious administrative error appearing on
 34 the face of an original determination, and within the benefit year of the
 35 affected claims, the commissioner, or a representative authorized by the
 36 commissioner to act in the commissioner's behalf, may reconsider and
 37 direct the deputy to revise the original determination so as to correct
 38 the obvious error appearing therein. Time for filing an appeal and

1 requesting a hearing before an administrative law judge regarding the
 2 determinations handed down pursuant to this subsection shall begin on
 3 the date following the date of revision of the original determination and
 4 shall be filed with the commissioner in writing within the prescribed
 5 periods as above set forth in subsection (c).

6 (h) Notice to the employer and the claimant that the determination of
 7 the department is final if a hearing is not requested shall be
 8 prominently displayed on the notice of the determination which is sent
 9 to the employer and the claimant.

10 SECTION 7. IC 22-4-24.5-1, AS AMENDED BY P.L.1-2002,
 11 SECTION 92, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 12 JULY 1, 2003]: Sec. 1. (a) The skills 2016 training fund is established
 13 to do the following:

14 (1) Administer the costs of the skills 2016 training program
 15 established by IC 22-4-10.5.

16 (2) Undertake any program or activity that furthers the purposes of
 17 IC 22-4-10.5.

18 (3) Refund skills 2016 training assessments erroneously collected
 19 and deposited in the fund.

20 (b) ~~Subject to subsection (j), fifty-five~~ **Eighty-three** percent ~~(55%)~~
 21 **(83%)** of the money in the fund shall be allocated to the state
 22 educational institution established under IC 20-12-61. The money so
 23 allocated to that state educational institution shall be used as follows:

24 (1) An amount to be determined annually shall be allocated to the
 25 state educational institution established under IC 20-12-61 for its
 26 costs in administering the training programs described in
 27 subsection ~~(b)~~ **(a)**. However, the amount so allocated may not
 28 exceed ~~fifteen~~ **twelve and one-half** percent ~~(15%)~~ **(12.5%)** of the
 29 total amount of money allocated under this subsection.

30 (2) After the allocation made under subdivision (1), forty percent
 31 (40%) shall be used to provide training to participants in joint labor
 32 and management building trades apprenticeship programs
 33 approved by the United States Department of Labor's Bureau of
 34 Apprenticeship Training.

35 (3) After the allocation made under subdivision (1), forty percent
 36 (40%) shall be used to provide training to participants in joint labor
 37 and management industrial apprenticeship programs approved by
 38 the United States Department of Labor's Bureau of Apprenticeship

1 Training.

2 (4) After the allocation made under subdivision (1), twenty percent
3 (20%) shall be used to provide training to industrial employees not
4 covered by subdivision (2).

5 (c) ~~Subject to subsection (j)~~; The remainder of the money in the fund
6 shall be allocated as follows:

7 (1) An amount not to exceed one million dollars (\$1,000,000) shall
8 be allocated to the department of workforce development annually
9 for technology needs of the department.

10 ~~(2) An amount not to exceed four hundred fifty thousand dollars~~
11 ~~(\$450,000) shall be allocated annually for training and counseling~~
12 ~~assistance under IC 22-4-14-2 provided by state educational~~
13 ~~institutions (as defined in IC 20-12-0.5-1) or counseling provided~~
14 ~~by the department of workforce development for individuals who:~~

15 ~~(A) have been unemployed for at least four (4) weeks;~~

16 ~~(B) are not otherwise eligible for training and counseling~~
17 ~~assistance under any other program; and~~

18 ~~(C) are not participating in programs that duplicate those~~
19 ~~programs described in IC 22-4-25-1(e).~~

20 ~~Training or counseling provided under IC 22-4-14-2 does not~~
21 ~~excuse the claimant from complying with the requirements of~~
22 ~~IC 22-4-14-3. Eligibility for training and counseling assistance~~
23 ~~under this subdivision shall not be determined until after the fourth~~
24 ~~week of eligibility for unemployment training compensation~~
25 ~~benefits.~~

26 ~~(3) (2) An amount to be determined annually shall be set aside for~~
27 ~~the payment of refunds from the fund.~~

28 ~~(4) (3) The remainder of the money in the fund after the allocations~~
29 ~~provided for in subsection (b) and subdivisions (1) through (3) (2)~~
30 ~~shall be allocated to other incumbent worker training programs.~~

31 (d) The fund shall be administered by the board. **However, Except**
32 **for disbursements described in subsection (j)**, all disbursements from
33 the fund must be recommended by the incumbent workers training
34 board and approved by the board as required by IC 22-4-18.3-6.

35 (e) The treasurer of state shall invest the money in the fund not
36 currently needed to meet the obligations of the fund in the same
37 manner as other public money may be invested. Interest that accrues
38 from these investments shall be deposited in the fund.

1 (f) Money in the fund at the end of a state fiscal year does not revert
2 to the state general fund.

3 (g) The fund consists of the following:

4 (1) Assessments deposited in the fund.

5 (2) Earnings acquired through the use of money belonging to the
6 fund.

7 (3) Money received from the fund from any other source.

8 (4) Interest earned from money in the fund.

9 (5) Interest and penalties collected.

10 (h) All money deposited or paid into the fund is appropriated
11 annually for disbursements authorized by this section.

12 (i) Any balance in the fund does not lapse but is available
13 continuously to the department for expenditures consistent with this
14 chapter.

15 ~~(j) If the fund ratio (as described in IC 22-4-11-3) is less than or~~
16 ~~equal to 1.5 or if the board determines that the solvency of the~~
17 ~~unemployment insurance benefit fund established by IC 22-4-26-1 is~~
18 ~~threatened, the funds assessed for or deposited in the skills 2016~~
19 ~~training fund shall be directed or transferred to the unemployment~~
20 ~~insurance benefit fund.~~

21 **(j) The expenses of administering the fund are paid from the**
22 **money in the fund subject to the approval of the incumbent**
23 **workers training board.**

24 SECTION 8. IC 22-4-25-1, AS AMENDED BY P.L.290-2001,
25 SECTION 20, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2003]: Sec. 1. (a) There is created in the state treasury a
27 special fund to be known as the special employment and training
28 services fund. All interest on delinquent contributions and penalties
29 collected under this article, together with any voluntary contributions
30 tendered as a contribution to this fund **and amounts deposited as**
31 **required by IC 22-4-10.5-7(b)**, shall be paid into this fund. The
32 money shall not be expended or available for expenditure in any
33 manner which would permit their substitution for (or a corresponding
34 reduction in) federal funds which would in the absence of said money
35 be available to finance expenditures for the administration of this
36 article, but nothing in this section shall prevent said money from being
37 used as a revolving fund to cover expenditures necessary and proper
38 under the law for which federal funds have been duly requested but not

1 yet received, subject to the charging of such expenditures against such
2 funds when received. The money in this fund shall be used by the board
3 for the payment of refunds of interest on delinquent contributions and
4 penalties so collected, for the payment of costs of administration which
5 are found not to have been properly and validly chargeable against
6 federal grants or other funds received for or in the employment and
7 training services administration fund, on and after July 1, 1945. Such
8 money shall be available either to satisfy the obligations incurred by
9 the board directly, or by transfer by the board of the required amount
10 from the special employment and training services fund to the
11 employment and training services administration fund. No expenditure
12 of this fund shall be made unless and until the board finds that no other
13 funds are available or can properly be used to finance such
14 expenditures, except that expenditures from said fund may be made for
15 the purpose of acquiring lands and buildings or for the erection of
16 buildings on lands so acquired which are deemed necessary by the
17 board for the proper administration of this article. The board shall order
18 the transfer of such funds or the payment of any such obligation or
19 expenditure and such funds shall be paid by the treasurer of state on
20 requisition drawn by the board directing the auditor of state to issue the
21 auditor's warrant therefor. Any such warrant shall be drawn by the state
22 auditor based upon vouchers certified by the board or the
23 commissioner. The money in this fund is hereby specifically made
24 available to replace within a reasonable time any money received by
25 this state pursuant to 42 U.S.C. 502, as amended, which, because of
26 any action or contingency, has been lost or has been expended for
27 purposes other than or in amounts in excess of those approved by the
28 bureau of employment security. The money in this fund shall be
29 continuously available to the board for expenditures in accordance with
30 the provisions of this section and shall not lapse at any time or be
31 transferred to any other fund, except as provided in this article. Nothing
32 in this section shall be construed to limit, alter, or amend the liability
33 of the state assumed and created by IC 22-4-28, or to change the
34 procedure prescribed in IC 22-4-28 for the satisfaction of such liability,
35 except to the extent that such liability may be satisfied by and out of the
36 funds of such special employment and training services fund created
37 by this section.

38 (b) The board, subject to the approval of the budget agency and

1 governor, is authorized and empowered to use all or any part of the
2 funds in the special employment and training services fund for the
3 purpose of acquiring suitable office space for the department by way
4 of purchase, lease, contract, or in any part thereof to purchase land and
5 erect thereon such buildings as the board determines necessary or to
6 assist in financing the construction of any building erected by the state
7 or any of its agencies wherein available space will be provided for the
8 department under lease or contract between the department and the
9 state or such other agency. The commissioner may transfer from the
10 employment and training services administration fund to the special
11 employment and training services fund amounts not exceeding funds
12 specifically available to the commissioner for that purpose equivalent
13 to the fair, reasonable rental value of any land and buildings acquired
14 for its use until such time as the full amount of the purchase price of
15 such land and buildings and such cost of repair and maintenance
16 thereof as was expended from the special employment and training
17 services fund has been returned to such fund.

18 (c) The board may also transfer from the employment and training
19 services administration fund to the special employment and training
20 services fund amounts not exceeding funds specifically available to the
21 commissioner for that purpose equivalent to the fair, reasonable rental
22 value of space used by the department in any building erected by the
23 state or any of its agencies until such time as the department's
24 proportionate amount of the purchase price of such building and the
25 department's proportionate amount of such cost of repair and
26 maintenance thereof as was expended from the special employment and
27 training services fund has been returned to such fund.

28 (d) Whenever the balance in the special employment and training
29 services fund is deemed excessive by the board, the board shall order
30 payment into the unemployment insurance benefit fund of the amount
31 of the special employment and training services fund deemed to be
32 excessive.

33 (e) Subject to the approval of the board, the commissioner may use
34 not more than five million dollars (\$5,000,000) during a program year
35 for training provided by the state educational institution established
36 under IC 20-12-61 to participants in joint labor and management
37 apprenticeship programs approved by the United States Department of
38 Labor's Bureau of Apprenticeship Training. Of the money allocated for

1 training programs under this subsection, fifty percent (50%) is
 2 designated for industrial programs, and the remaining fifty (50%)
 3 percent is designated for building trade programs.

4 **(f) The commissioner shall allocate an amount not to exceed four**
 5 **hundred fifty thousand dollars (\$450,000) annually for training**
 6 **and counseling assistance under IC 22-4-14-2 provided by state**
 7 **educational institutions (as defined in IC 20-12-0.5-1) or counseling**
 8 **provided by the department of workforce development for**
 9 **individuals who:**

10 **(1) have been unemployed for at least four (4) weeks;**

11 **(2) are not otherwise eligible for training and counseling**
 12 **assistance under any other program; and**

13 **(3) are not participating in programs that duplicate those**
 14 **programs described in subsection (e).**

15 **Training or counseling provided under IC 22-4-14-2 does not**
 16 **excuse the claimant from complying with the requirements of**
 17 **IC 22-4-14-3. Eligibility for training and counseling assistance**
 18 **under this subsection shall not be determined until after the fourth**
 19 **week of eligibility for unemployment training compensation**
 20 **benefits. The training and counseling assistance programs funded**
 21 **by this subsection must be approved by the United States**
 22 **Department of Labor's Bureau of Apprenticeship Training.**

23 **SECTION 9. IC 22-4-43 IS ADDED TO THE INDIANA CODE AS**
 24 **A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY**
 25 **1, 2003]:**

26 **Chapter 43. Work Sharing**

27 **Sec. 1. The following definitions apply throughout this chapter:**

28 **(1) "Affected employee" means an individual who has been**
 29 **continuously on the payroll of an affected unit for at least three**
 30 **(3) months before the employing unit submits a work sharing**
 31 **plan.**

32 **(2) "Affected unit" means a specific plant, department, shift,**
 33 **or other definable unit of an employing unit:**

34 **(A) that has at least two (2) employees; and**

35 **(B) to which an approved work sharing plan applies.**

36 **(3) "Approved work sharing plan" means a plan that satisfies**
 37 **the purpose set forth in section 2 of this chapter and has the**
 38 **approval of the commissioner.**

(4) "Commissioner" means the commissioner of workforce development appointed under IC 22-4.1-3-1.

(5) "Normal weekly work hours" means the lesser of:

(A) the number of hours that an employee in the affected unit works when the unit is operating on its normal full-time basis; or

(B) forty (40) hours.

(6) "Work sharing benefit" means a benefit payable to an affected employee for work performed under an approved work sharing plan, but does not include benefits that are otherwise payable under this article.

(7) "Work sharing employer" means an employing unit for which a work sharing plan has been approved.

(8) "Work sharing plan" means a plan of an employing unit under which:

(A) normal weekly work hours of affected employees are reduced; and

(B) affected employees share the work that remains after the reduction.

Sec. 2. The work sharing unemployment insurance program seeks to:

(1) preserve the jobs of employees and the workforce of an employer during lowered economic activity by reduction in work hours or workdays rather than by a layoff of some employees while other employees continue their normal weekly work hours or workdays; and

(2) ameliorate the adverse effect of reduction in business activity by providing benefits for the part of the normal weekly work hours or workdays in which an employee does not work.

Sec. 3. An employing unit that wishes to participate in the work sharing unemployment insurance program shall submit to the commissioner a written work sharing plan.

Sec. 4. (a) Within fifteen (15) days after receipt of a work sharing plan, the commissioner shall give written approval or disapproval of the plan to the employing unit.

(b) The decision of the commissioner to disapprove a work sharing plan is final and may not be appealed.

(c) An employing unit may submit a new work sharing plan not

1 less than fifteen (15) days after disapproval of a work sharing plan.

2 **Sec. 5. The commissioner shall approve a work sharing plan that**
 3 **meets the following requirements:**

4 (1) The work sharing plan must apply to:

5 (A) at least ten percent (10%) of the employees in an affected
 6 unit; or

7 (B) at least twenty (20) employees in an affected unit.

8 (2) The normal weekly work hours of affected employees in the
 9 affected unit shall be reduced by at least ten percent (10%),
 10 but the reduction may not exceed fifty percent (50%) unless
 11 waived by the commissioner.

12 **Sec. 6. A work sharing plan must:**

13 (1) identify the affected unit;

14 (2) identify each employee in the affected unit by:

15 (A) name;

16 (B) Social Security number; and

17 (C) any other information the commissioner requires;

18 (3) specify an expiration date that is not more than six (6)
 19 months after the effective date of the work sharing plan;

20 (4) specify the effect that the work sharing plan will have on
 21 the fringe benefits of each employee in the affected unit,
 22 including:

23 (A) health insurance for hospital, medical, dental, and
 24 similar services;

25 (B) retirement benefits under benefit pension plans as
 26 defined in the federal Employee Retirement Income Security
 27 Act (29 U.S.C. 1001 et seq.);

28 (C) holiday and vacation pay;

29 (D) sick leave; and

30 (E) similar advantages;

31 (5) certify that:

32 (A) each affected employee has been continuously on the
 33 payroll of the employing unit for three (3) months
 34 immediately before the date on which the employing unit
 35 submits the work sharing plan; and

36 (B) the total reduction in normal weekly work hours is in
 37 place of layoffs that would have:

38 (i) affected at least the number of employees specified in

- 1 section 5(1) of this chapter; and
- 2 (ii) resulted in an equivalent reduction in work hours; and
- 3 (6) contain the written approval of the collective bargaining
- 4 agent for each collective bargaining agreement that covers any
- 5 affected employee in the affected unit.

6 **Sec. 7.** If a work sharing plan serves the work sharing employer
 7 as a transitional step to permanent staff reduction, the work
 8 sharing plan must contain a reemployment assistance plan for each
 9 affected employee that the work sharing employer develops with
 10 the commissioner.

11 **Sec. 8.** The work sharing employer shall agree to:

- 12 (1) submit reports that are necessary to administer the work
- 13 sharing plan; and
- 14 (2) allow the department to have access to all records necessary
- 15 to:
- 16 (A) verify the work sharing plan before its approval; and
- 17 (B) monitor and evaluate the application of the work sharing
- 18 plan after its approval.

19 **Sec. 9. (a)** An approved work sharing plan may be modified if the
 20 modification meets the requirements for approval under section 6
 21 of this chapter and the commissioner approves the modifications.

22 **(b)** An employing unit may add an employee to a work sharing
 23 plan when the employee has been continuously on the payroll for
 24 three (3) months.

25 **(c)** An approved modification of a work sharing plan may not
 26 change its expiration date.

27 **Sec. 10. (a)** An affected employee is eligible under this chapter to
 28 receive work sharing benefits for each week in which the
 29 commissioner determines that the affected employee is:

- 30 (1) able to work; and
- 31 (2) available for more hours of work or full-time work for
- 32 the worksharing employer.

33 **(b)** An affected employee who otherwise is eligible may not be
 34 denied work sharing benefits for lack of effort to secure work as set
 35 forth in IC 22-4-14-3 or for failure to apply for available suitable
 36 work as set forth in IC 22-4-15-2 from a person other than the
 37 work sharing employer.

38 **(c)** An affected employee shall apply for benefits under

1 **IC 22-4-17-1.**

2 **(d) An affected employee who otherwise is eligible for benefits is:**

3 **(1) considered to be unemployed for the purpose of the work**
 4 **sharing unemployment insurance program; and**

5 **(2) not subject to the requirements of IC 22-4-14-2.**

6 **Sec. 11. The weekly work sharing unemployment compensation**
 7 **benefit due to an affected worker is determined in STEP FOUR of**
 8 **the following formula:**

9 **STEP ONE: Determine the weekly benefit that would be due**
 10 **to the affected employee under IC 22-4-12-4.**

11 **STEP TWO: Determine the percentage reduction in the**
 12 **employee's normal work hours as to those under the approved**
 13 **work sharing plan.**

14 **STEP THREE: Multiply the number determined in STEP ONE**
 15 **by the quotient determined in STEP TWO.**

16 **STEP FOUR: If the product determined under STEP FOUR is**
 17 **not a multiple of one dollar (\$1), round down to the nearest**
 18 **lower multiple of one dollar (\$1).**

19 **Sec. 12. (a) An affected employee is eligible to receive not more**
 20 **than twenty-six (26) weeks of work sharing benefits during each**
 21 **benefit year.**

22 **(b) The total amount of benefits payable under IC 22-4-12-4 and**
 23 **work sharing benefits payable under this chapter may not exceed**
 24 **the total payable for the benefit year under IC 22-4-12-4(a).**

25 **Sec. 13. During a week in which an affected employee who**
 26 **otherwise is eligible for benefits does not work for the work**
 27 **sharing employer:**

28 **(1) the individual shall be paid unemployment insurance**
 29 **benefits in accordance with IC 22-4-12; and**

30 **(2) the week does not count as a week for which a work sharing**
 31 **benefit is received.**

32 **Sec. 14. During a week in which an employee earns wages under**
 33 **an approved work sharing plan and other wages, the work sharing**
 34 **benefit shall be reduced by the same percentage that the combined**
 35 **wages are of wages for normal weekly work hours if the other**
 36 **wages:**

37 **(1) exceed the wages earned under the approved work sharing**
 38 **plan; and**

(2) do not exceed ninety percent (90%) of the wages that the individual earns for normal weekly work hours.

This computation applies regardless of whether the employee earned the other wages from the work sharing employer or another employer.

Sec. 15. While an affected employee applies for or receives work sharing benefits, the affected employee is not eligible for:

(1) extended benefits under IC 22-4-12-4; or

(2) supplemental federal unemployment compensation.

Sec. 16. Work sharing benefits shall be charged to the work sharing employer's experience balance in the same manner as unemployment insurance is charged under this article. Employers liable for payments instead of contributions shall have work sharing benefits attributed to service in their employ in the same manner as unemployment insurance is attributed under this article.

Sec. 17. The commissioner may revoke approval of an approved work sharing plan for good cause, including:

(1) conduct or an occurrence that tends to defeat the intent and effective operation of the approved work sharing plan;

(2) failure to comply with an assurance in the approved work sharing plan;

(3) unreasonable revision of a productivity standard of the affected unit; and

(4) violation of a criterion on which the commissioner based the approval of the work sharing plan.

Sec. 18. This chapter expires January 1, 2006.

SECTION 10. [EFFECTIVE JULY 1, 2003] (a) Notwithstanding IC 22-4-43-13, as added by this act, the unemployment insurance board shall carry out the duties imposed upon it under IC 22-4-43-13, as added by this act, under interim written guidelines recommended by the commissioner of workforce development and approved by the unemployment insurance board.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted under IC 22-4-43-13, as added by this act.

(2) December 31, 2004.

SECTION 11. THE FOLLOWING ARE REPEALED [EFFECTIVE

- 1 JULY 1, 2003]: IC 22-4-10.5-1; IC 22-4-11-3.2.".
- 2 Renumber all SECTIONS consecutively.
(Reference is to SB 486 as printed February 14, 2003.)

and when so amended that said bill do pass.

Representative Liggett